

CLEAN WATER COUNCIL
Meeting Highlights
March 9, 2004

Location:

NJ Environmental Infrastructure Trust, Building 6, Suite 201, 3131 Princeton Pike, Lawrenceville, NJ

Attendees:

Pat Matarazzo, Kerry Kirk Pflugh, Dan VanAbs, Helen Heinrich, Jim Cosgrove, Jr., Ray Zabihach, Pat Pittore, Diane Alexander, Carmen Valentin, Rick Kropp, Pam Goodwin, Russ Furnari and Ursula Montis.

Public Hearing

Kerry reported that she had touched bases with Rutgers to set up a date for the Public Hearing. May 11, 2004 had tentatively been chosen with the possibility of reserving the Jamesburg Holiday Inn. All we would need now is a topic, a list of speakers and an agenda to prepare the brochure and send it out to the public. We should decide on a topic for the hearing today. We have discussed a number of subjects over the past year. Larry Baier had given us a charge on water trading, however, we have been distracted from that because of the MTBE issues. The Chiefs at Watershed have shown interest in the water trading topic. The EPA Watershed Initiative grant application on water trading has left the region and gone on to the Nationals to be evaluated. So there may be hope in getting that funded. It is a 1.2 million dollar project if we get funded.

Jim Cosgrove - Do you think we are one Public Hearing too early? We have the EPA grant out there and if it is funded we will be learning more on water trading. We have the Passaic TMDL, which will give us more technical information within the next six months on water trading. I feel that at present, we do not have enough information on water trading to make it our Public Hearing topic.

Helen Heinrich - Could we do something connecting with Stormwater?

Jim- In terms of interest right now, Stormwater is the thing.

Dan VanAbs - The date is wrong for this issue. There is a study through Morris County going on, with regard to Stormwater Utilities, but it won't be ready by May, possibly July. That will be a perfect venue for getting that information out.

Kerry - We could postpone the Hearing until the end of the year.

Pat - There will be a lot more information available to us by the Fall.

Kerry - At the end of this month, the NJPDES Program will be issuing a Permit Guidance, a step by step manual for municipalities and how to comply with the permit requirements. In that manual there will be a model Stormwater Management Plan as well as the model regional Stormwater Management Plan. There are also going to be model ordinances in that document as well as resources to do education and outreach. A CD will accompany that manual and will include all sorts of educational material and links to websites to get more information. It does not deal with how to design a project, or with issues on highway authorities. It may be better to wait until the public has a chance to digest the information in order to get an idea of their concerns.

Pat - There is an interest in Washington on beneficial reuse of effluent and sludge. That may be a topic we could look at. But if we are going to do stormwater or trading, having the Hearing in the Fall makes more sense.

Dan - The other topic that has come up in our past meetings is the whole issue of the TMDL implementation. We have fecal coliform TMDLs, Lake TMDL's and we are coming up with other TMDLs. How we take it to the next step might be a topic to consider. It's a broader topic.

Kerry - Will that topic bring the public to the Hearing? Is it an issue that has broad concern?

Dan - If the Department is intent on implementing the non-point source aspects of TMDLs, then it directly ties into the stormwater permits, wastewater management plans, and a lot of other things.

Russ - We could do what we did last year and use speakers to present the information, as well as have the Hearing. It may work out.

Helen - asked Kerry what was the nature of the questions that were being asked about stormwater?

Kerry - All kinds of questions. Some are site specific, some deal with finances, some are presentation requests. Currently, the program is trying to gather material together to satisfy the volume of requests.

Russ - A lot of questions I have been getting has been on C1's.

Jim - C1's are probably the most misunderstood part of the regulations. The whole HUC 14 discussion has gone over everyone's head. Actually, DEP has a layer now that has all the HUC 14s associated with the streams. It is a very useful layer. The municipalities were all supposed to have submitted their requests for the general permit by now. How many have you received?

Kerry - About two weeks ago about half of them were in. My guess is they are all in by now.

Pat - We need to make a decision on whether we keep the May 11th date or postpone the Hearing it until the Fall. Ray, will the Utilities' study be done by the Fall?

Ray Zabihach - We expect to be done by August.

Jim - I would push the Hearing to the Fall.

Dan - We could call it "Meeting the Challenges of Stormwater" and have the results of the Utilities study as a part of it, but also give the people the opportunity to talk about some of the issues that they are encountering in getting the municipalities to respond.

Pat - called for a date to be decided on for the Public Hearing.

After discussion the month of October was picked. The Water Environment Federation National Conference is to be held at the beginning of October, which would be a conflict. It was determined that we work around the time frame for that conference in order to come up with a definite date for the Hearing in October.

Kerry - Now that we have the month of October for the Hearing, will our topic be Stormwater?

Pat - suggested doing a roundtable reenactment of the stormwater process, where we would bring experts to the table and have a moderator who would conduct the presentation and walk through an actual process from start to finish. We could use a fictitious town that was applying for the stormwater plan, have representatives of that town as well as from DEP at the table, and run through the process from start to implementation.

Russ - Maybe then you could feed in things, for example, if they had a TMDL or a regional utility, how would it change the process, etc.

Pat - We would need a strong moderator to lead us into the different aspects. We would show how to design the stormwater management system in that town, and all the things that can impact on it. It makes it real to the audience, so they can understand how it can be applied to their own towns.

Jim - That process could answer a lot of questions people have been asking.

Pat - It gives the audience a lot of thought process. It should come up with questions that had not been answered or dealt with before.

Dan - We will probably have to have a dress rehearsal to practice how we do this.

Carmen Valentin - It's doable. I would be glad to coordinate the rehearsal practice.

Helen - Will we deal with a Tier A town or Tier B town?

Pat - I think we can deal with a town that has both. Rick Kropp's team has a lot of information on what happens when the streams change, what happens with basic transfers and what's been showing up in the waters today. By dealing with large parking lots, runoff and impervious surfaces, we can pull all of this information together to show stormwater and water impacts.

Carmen - I would suggest you get together for a brainstorming session and bring forth all the ideas you have that might be used for the roundtable. Think of scenarios that might work.

Kerry - We might be able to do that right now.

Jim - I would suggest waiting until 2 or 3 months before the Hearing to do that. A lot can change and we will learn a lot more by then so we will be better educated to answer the questions brought up.

Pat - The Passaic TMDL is going to give us really good direction. Ray's process will give us another aspect. The reports from private well testing will be helpful. We may be able to plug in the MTBE issue at this point. Are there hot spots in the well testing in NJ? Does stormwater impact that?

Russ - Or, will stormwater impact the wells if you try to increase recharge? What does it do to the ground water quality in that area.

Dan - We will need to make the brainstorming an eight hour exercise.

Russ - One of the things we have to do now, it to identify the categories of people who will be participating and also, who will be our moderator. The moderator will be your key person.

Kerry - We've mentioned county and municipality.

Dan - We should have a municipal engineer and a mayor to give two very different viewpoints.

Pat - Transportation and Agriculture need to be included as well as Non-Point Pollution Control and USGS.

Ray - You need people included in the panel that should be high enough in their office to be able to determine policy and also be able to have it implemented. These are the people who will be looking at the big picture.

Carmen - One of the first things we need to determine is, what outcome are we looking for with this format. That will determine the participants. We have to determine if we are holding this Public Hearing so that we can have some policy decisions made at the end, or if this is more of an informational type meeting?

Kerry - It could go either way. Historically the Council has done both.

Dan - We will need to have the highest level of knowledgeable person in that field at the table. For DEP it may be a Bureau Chief, for a municipality it will be the municipal engineer, for DOT it will again probably be the Bureau Chief. It will be Mayor as far as funding and putting the ordinances in place.

Pat - We need to have the generic environmental group there as well.

Rick Kropp - You could have two sessions: the morning for your technical and implementation session and the afternoon for the Mayors and institutional session. I worked for a municipality and I personally would want the road superintendent, who also can supply information on public safety, there at the table.

Russ - We could include what the difference will be in the time frame between October, November and December, when there are hundreds of thousands of leaves on the ground, and the rest of the year, when there is a different kind of debris issue.

Kerry - Do you want a model town or a real town?

Pat - We should use a fictitious town. That would allow us to plug in all the elements.

Kerry - Last year we had four speakers who spoke for about two hours. We then had questions and answers followed by a break, after which we resumed with the Hearing. We started at 2pm and ended about 5pm, since there were only about eight people who gave testimony.

The question of whether or not we had to actually have a Public Hearing was discussed. The CWC By-Laws state that we must have a Public Hearing at least once a year.

Russ - One of the options we might consider would be to start off with a Public Hearing and state to the public that we would be having the staged scenario. Issues that are raised at the Public Hearing session would then be included in the case study evaluation that we would do afterwards, with the idea that we would have anticipated most of the key issues to be brought up by the public. So, you would have already gotten testimony for the record showing that those issues were actually there and hopefully we will have addressed most of those issues in the roundtable discussion. In this way, you can give the public feedback immediately because you have done your homework ahead of time.

Carmen - It definitely has to be scripted and staged. We each have to play a role in what issues we want brought up.

Jim - I think it's a great idea. My only concern is that there will be a lot of effort involved with pulling something like this together. It will involve more work for the speakers than simply preparing a presentation. But if we can do it, it will be great!

Kerry - How would we get the issues raised in the Hearing portion prior to the scenario portion? My concern is that those issues will not get raised, unless each one of us, or one of our colleagues, be assigned specific questions to ask.

Ray - I would strongly recommend that you do not have the Hearing until afterwards. In our past Public Hearings we were quite clear on what our subject matter and intent was, and we still got testimony responding to "black" rather than "white".

Pat - I think if we have our fictitious town up front, the public will be responding to what they see and hear. Yes, it needs to be scripted and it needs to be rehearsed.

Pamela Goodwin - Our charge is to gather information. What we are thinking of doing is jury rigging. I think we should have a Public Hearing, nothing else, gather all the information, and then, later, if we feel we need to share this information, put together a follow up that is responsive to "black" as opposed to "white".

Rick Kropp -Pat's proposal was to get the people to think about this in ways that they haven't before. By staging this, you are trying to bring issues out that the Mayor, the planning board and the road superintendent haven't thought about. If you leave opportunity for testimony to be submitted after the Hearing (leave it open for a week), they can go back, think about what they've heard, and then write up their testimony and send it in.

Pam - No matter how you do this, the people who are coming to give public testimony will come with something already prepared. Even though you have enlightened them in the hour or so before the Public Hearing, they will still get up and read from that prepared script. The point is, if you are really trying to have some kind of influence, whether it is on what their testimony is, or what their general overall sense of knowledge is, packaging these two things on the same day is not a good idea.

Dan - I am not aware of any definition in state law of a Public Hearing.

Kerry - I think there is one and there are specific requirements.

Dan - Does it mean that someone has to be able to present oral testimony? I am just trying to figure out a way to put on a show where the public is involved in the show, where you can periodically break away from the discussion, ask what people think about this, get comments from them, then go back to the show. That response may constitute getting public input. If the people want to hand in a formal testimony, then they do. That is part of the public record. You set it up so that it is an interactive program and the interaction you get from the public, is the other part of the hearing.

Kerry - That would be a departure from any kind of public hearing I have ever attended or participated in. I am not sure that it would meet the requirements for a public hearing.

Rick Kropp -I have been at both kinds. What this second kind offers is an opportunity for you to keep the hearing record open for a week or so to let the people change their testimony and send it in. If you are trying to educate the public and really get them aware of all the issues, the second one is the far better one to do.

Kerry - So everything that takes place in that "second" type of public hearing is part of the public record?

Rick - Yes.

Jim - It would be nice to put on an event that is educational, but we certainly have to do it in such a way as to comply with our charge.

Ray - By having this staged scenario, you will be answering a lot of questions and will generate a lot more.

Pat - That's what we want to do.

Kerry - I think if we make the whole thing an interactive public hearing, have the presentations, the dialogue and the exchanges as part of public record, we would not have to worry about the before or after. We would leave the comment period open for 2 - 3 weeks for people to do follow up, and advertise that as well. Kerry asked Pam what she thought of this idea.

Pam - I think it is a good idea.

Kerry - So, we will do this in the Fall and the issue will be Stormwater. If we have municipal engineers, county planners, agriculture, DOT, USGS, and Mayors, should we not also have representation from DEP and other agencies to have some kind of exchange? I'm thinking of people like Liz Semple, Sandra Blick, Bruce Friedman, Barry Chalofsky, Barry Miller and maybe Larry Baier. We could include some area managers actually working on some site specific projects in implementing the rules.

Jim - We should invite Deb Bechtel.

Kerry - We can get the policy people, as well as the folks actually doing the day to day work, the area managers.

Dan - Supervisor or Section Chief would probably be the level you would need. A Section Chief from Land Use would be good because you would have someone with great knowledge of the process but who also thinks organizationally. You need someone who gives a very good and concise presentation.

Carmen - After the brainstorming session, when we have all the questions and the all the scenarios and we are ready, we should have a dress rehearsal. We should invite all the people we have asked to participate and do a dress rehearsal.

Kerry - Each one of you have to commit to the dates and the meetings that are called. It's going to be a tremendous amount of work and we all have to do our part in order for it to work.

Carmen - If we each play a role in this, it should not be that bad. Once we figure out what we want to do, have all the questions and scenarios, and have picked out the players, it will be easy. The hard work will be getting everyone together for the dress rehearsal.

Pat - The moderator is the key. He or she has to be able to conduct the roundtable and keep it on track.

Dan - If it works, it will be dynamite and we should have this on film.

Kerry -Already covered under the Rutgers contract. We can get them to tape it for us.

Carmen - This whole thing will be useless if we don't get the audience out to see it.

Kerry - Yes, we will have to advertise. Each CWC member will have to commit to go through their own networks and any other constituent base you have to advertise and get people to come out. I have my own networks and I will also work with the Commissioner's office to spread the word.

Ray - We are targeting the people at the right time when there are so many questions out there in need of answers.

Dan - Cosponsorship is the legitimate thing to think about.

Kerry - Absolutely! A few to consider would be the League of Municipalities, the Association of Counties, NJ Society of Municipal Engineers, AEA, etc.

Jim - We are going to need a very large room. Any meetings I have been to pertaining to stormwater have been attracting a very large audience.

Pat - suggested using the Student Center at Rutgers.

Dan - We need to consider a room that is big enough and that can be set up for the "theatre in the round" that we want to do.

Kerry - Do we need some place with raised seats? EcoComplex is like that but may not be big enough.

Other suggestions or places to hold the Hearing were thrown out onto the floor: Mercer Co. Community College Conference Center, Marriott Hotel in Trenton, the Morris Co. Fire Center.

Jim - The Marriott Hotel in Trenton has a main room that can hold up to 500 people. I think they can close and expand that room accordingly.

Kerry - I have contacts there so I will check on the main room.

Dan - There is the George Street Theatre in New Brunswick that is set up in a 180° semi-circle with a stage.

Russ - Mason and Gross is another theatre to consider. It may hold up to 300 people.

Kerry - I will let Rutgers handle finding us a place. Who do we want as speakers? Rutgers can reach out to those people. However, we have to give them the names of who we want as speakers. I would also like to suggest doing the dress rehearsal at the same place as the Hearing, unless it is too expensive.

Dan - It might be a good idea, since everyone's schedule is so tight, to have the dress rehearsal in the morning, give them lunch, then hold the Hearing, both on the same day.

Ray - I suggest we all go home and think about the various scenarios in terms of a municipality having to do with stormwater. At the very next meeting we can come up with a consensus of what conditions and requirements will be needed. Then, we can think about who we would want as our speakers.

Jim - This is a big commitment for each member. We may be underestimating the level of commitment this will take.

Kerry - We have between now and July to script this Hearing. Ursula and I have to do some homework on the date and work with Rutgers to find and hold a place for the Hearing. We will also send e-mail reminders to you for scenarios.

Rick Kropp - It may be a good idea to form a subcommittee of about four or five people to get things done between meetings.

Kerry - We can do that at our next meeting.

Rick - Instead of losing a month, maybe everyone can take the responsibility for getting some names of people, through their many contacts with the municipalities and, that may be interested in speaking at the Hearing. So by the next meeting we may already have a short list of names to work with.

Carmen - Kerry, as reference to today's meeting, can you send us out the action items and assignments as soon as possible, before we get the minutes? I can give you names from the different State agencies that can participate.

Dan - In terms of choosing a municipal engineer, we should look for someone on staff, as opposed to a consultant. And also, look for someone who has responsibilities in both engineering and in public works.

Pat - In that case, you would want to bring in a municipal planner.

Dan - Then we've already narrowed it down. Peter Messina, is a planner and engineer of Bernards Twp. public works. He is very committed to stormwater, is a good speaker and is a super public figure.

DEP UPDATE

Larry Baier has stepped down as Director of Division of Watershed Management. At this point we do not know what will happen to the Division. There has been some discussion of parceling out the different charges to different groups, such as Land Use, Water Supply, NJPDES, etc.; bringing in a new Director, scaling down the Program and reorganizing it so that it would be more manageable, establishing priorities and focusing on those, to name a few ideas. Larry is still acting as Director until a decision is made. He currently is charged with working on the new WQMP Rule.

They have reorganized Science and Research with Dr. Eileen Murphy the new Director. They will stay as a Division, with three Bureaus. One Bureau will deal with natural resources and ecological risks, and the other will deal with the toxic and risk assessment issues. The third Bureau, will be led by Marty Rosen, which concerns innovative technology and greenhouse gas issues.

Parks and Forestry is already reorganized. The next one to be reorganized will be Fish and Wildlife.

Judy Shaw stepped down as Administrator of Brownfields in Site Remediation. She will be managing the Community Relations Program..

Jim - They formally withdrew the Wildlife Criteria.

Russ - They allowed it to lapse. They did not use the term "formally withdrew", they said it had "administratively lapsed". They are working on an implementation plan that needs to be added.

Meeting adjourned.

